

JUN 20 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

ANDRE BRIGHAM YOUNG,

Plaintiff - Appellant,

v.

ROGER W. BRUETT; MICHAEL T.
NOLAN; WASHINGTON STATE PATROL
CRIME LABORATORY,

Defendants.

No. 02-35844

D.C. No. MC-02-00116-JLW

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, District Judge, Presiding

Submitted June 2, 2003**
Seattle, Washington

Before: B. FLETCHER, BRUNETTI, and McKEOWN, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Appellant Andre Young seeks damages pursuant to 42 U.S.C. § 1983, alleging a violation of his constitutional rights. Specifically, Young argues that defendants committed perjury, fabricated evidence, destroyed evidence and induced a victim to testify falsely at Young's 1986 rape trial. Young's claim is barred by the Supreme Court's decision in Heck v. Humphrey, 512 U.S. 477 (1994). Young cannot collaterally attack his conviction by filing a § 1983 claim without proving that the conviction or sentence has been "reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus." Id. at 486-87.

Accordingly, the district court is AFFIRMED.

AFFIRMED.